

Application No. 09/903,215
Amendment dated February 9, 2004
Reply to Office Action of September 23. 2003

REMARKS/ARGUMENTS

Responsive to the Official Action mailed September 23, 2003, applicants have revised the claims of their application in an earnest effort to place this case in condition for allowance.

Specifically, claims 22 and 23 have been canceled, and claims 12-19 amended. Reconsideration is respectfully requested.

In accordance with the Examiner's Requirement for Restriction, applicants hereby affirm their provisional election, with traverse. This election is made with traverse since it is believed that the claims of Groups I, II, and III are sufficiently closely related as to permit their consideration in a single application. Should the Examiner maintain his requirement, applicants respectfully reserve the right to file one or more divisional applications directed to the non-elected claims.

In the Action, the Examiner has rejected a number of the claims under 35 U.S.C. §112. Applicants regret the inadvertent improper claim dependency, which has been revised by this Amendment. It is believed that this rejection can now be withdrawn.

In rejecting the pending claims under 35 U.S.C. §103, the Examiner has relied upon U.S. Patent No. 6,022,818, to Welchel et al., in view of U.S. Patent No. 3,485,706, to Evans, and U.S. Patent No. 6,321,425, to Putnam et al. However, it is respectfully submitted that applicants' claimed method is neither taught nor suggested by these references, even when combined, and accordingly, the Examiner's rejection is respectfully traversed.

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As discussed in the Specification, applicants' invention contemplates formation of a multi-layer nonwoven fabric construct, which is provided with a plurality of *upstanding projections* between and about which extend *a network of liquid-accepting channels*. In one form, applicants' novel fabric construct comprises an integrated liquid-acceptance layer and liquid-distribution layer. As further set forth in the pending claims, the multi-layer construct may further include a cellulosic fiber layer, such as comprising wood pulp, to thereby provide an integral liquid-retention layer.

It is respectfully maintained that the references cited by the Examiner, even when combined, fail to teach or suggest formation of a multi-layer construct having these specifically-recited features.

In the Action, the Examiner has stated that the Welchel et al. reference describes an entangled, nonwoven composite made from absorbent fibers (wood pulp fibers) and matrix fibers, and that this reference describes a fluid intake region, a fluid retention region, and a fluid transfer region. The Examiner acknowledges that this reference is "silent" about applicants' claimed basis weight and image transfer device, implicitly acknowledging that the principal reference fails to teach or suggest the formation of a fabric construct having a liquid acceptance layer with *upstanding projections*, and associated *network of liquid-accepting channels*.

It is respectfully noted that Welchel et al. is further deficient in its teachings, in that Welchel et al. is essentially limited to the provision of *two fibrous components*, the so-called nonwoven substrate 20, and the associated pulp layer 18. As specifically stated

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at column 3, lines 5 *et seq.*, "an interface is created where the absorbent fibers mix with the matrix fibers thereby creating a fluid transfer zone". In other words, the only third layer of Welchel et al. merely comprises an interface of the two outer fibrous components. Thus, there are *no teachings* of providing a first fibrous layer, as claimed, a second fibrous layer comprising a blend of fibers, as claimed, and the optional provision of a third cellulosic fibrous layer. It is respectfully noted that it is inappropriate to read beyond the teachings of a cited prior art reference, with the guidance of applicants' own disclosure, in formulating a rejection under 35 U.S.C. §103.

In the Action, the Examiner has referred to Evans for its teachings relating to hydroentanglement on a foraminous entangling surface. However, the Examiner has not pointed to any teachings in *any of the cited references* which teach the formation of a multi-component fabric, including a liquid-acceptance layer having upstanding projections, and a network of liquid-accepting channels. Only applicants' own disclosure teaches or suggests formation of such a novel fabric construct.

In the Action, the Examiner has referred to the Putnam reference for its teachings relating to use of an image transfer device. Applicants are familiar with the commonly-assigned Putnam et al. document, and note that the thrust of its teachings are summarized in its title by reference to a process for making a *low basis weight nonwoven fabric*. An important aspect of Putnam et al. is the use of a relatively lightly bonded, continuous polymeric filament precursor web, with hydroentanglement desirably acting to break the filament bonds, and unbond the filament for formation of a low basis weight fabric. It is

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respectfully maintained that even when considered in combination with other cited references, the combined teachings do not suggest the formation of a multi-layer nonwoven fabric construct, including upstanding projections and a network of liquid-accepting channels, and liquid-acceptance and liquid-distribution layers formed from differing fiber compositions, as specifically claimed.

In view of the failure of the cited references to teach formation of a fabric construct having liquid-accepting and liquid-distribution layers as claimed, it is respectfully noted that these references cannot teach the further formation of a plurality of apertures extending through such layers, as set forth in dependent claim 18.

Applicants respectfully refer to M.P.E.P. Section 2143.01 regarding obviousness rejections. As this M.P.E.P. Section specifically admonishes, "the mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination", and that "if [the] proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification" (citations omitted). In the present instance, the Examiner has specifically relied upon the teachings of Putnam et al., which contemplates a highly desirable method for formation of a lightweight fabric from spunbond filamentary material. There is *no reason* one skilled in the art would consider this prior art reference in combination with the principal Welchel et al. document, which is directed to a composite nonwoven/wood pulp fabric. Applicants note the Examiner's reference to the

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Evans reference, but it is respectfully maintained that this reference simply fails to overcome the clear deficiencies in the teachings of Welchel et al. in rendering the present invention obvious to one skilled in the art. It is respectfully maintained that to simply combine and modify the diverse teachings of the prior art, with the guidance of applicants' own disclosure, cannot provide a proper basis for rejection under 35 U.S.C. §103.

In view of the foregoing, formal allowance of claims 12-21, and 24, is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorney, they may be reached at the number indicated below.

Respectfully submitted,

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **February 9, 2004**.

